

REMARKS

Applicants appreciate the Examiner's thorough examination of the present application, and submits that these amendments and remarks are without prejudice as to patentability, including as to any doctrine of equivalents issues. Applicants thank the Examiner for the courtesies extended to Applicants' attorney during the recent Examiner interview and for the acknowledgement that the prior art does not contain all of the claim elements and that the final action will be removed. Applicants have amended Claims 4 and 7 and have added new Claims 17-20. The new claims are fully supported in the specification and drawings as originally filed, and no new matter has been added.

As an initial matter, Applicants thank the Examiner for the acknowledgment and admission that none of the references discloses or suggests the problem or its cause as recognized by Applicants (paragraph 5, lines 3-4, of Official Action). In turn, and in view of this admission, Applicants submit that the argument set forth by the Examiner that it is enough that the references suggest doing what Applicants did is both misplaced and a clear admission of improper hindsight. Applicants respectfully submit that it is a logical impossibility under 35 U.S.C. § 103 analysis to admit on the one hand that the "references do not disclose or suggest the existence of applicant's problem or its cause" and for there to be some type of proper motivation to combine reference as required by *In re Kotzab* and numerous other cases to somehow arrive at the claimed invention. Section 103 references by themselves simply cannot "suggest doing what applicants did" if there is no recognition of the problem and no evidence supplied by the Examiner on why one skilled in the art would have any motivation to combine references, namely *Brattain et al.*, *Nazem et al.*, and *Lukose* (paragraphs 1-2 of Office Action), as well as *Phillips et al.* and *Meyer et al.* (paragraphs 3-4 of Official Action).

For example, simply pointing out piecemeal sections of references and "nakedly" setting forth that it would be obvious to one of ordinary skill in the art to combine these references fails to meet the *prima facie* standards of obvious, is no evidence of motivation to combine, evidences improper hindsight, and is simply wrong application of the MPEP procedures and the law by the Examiner. Also, simply citing the law back to Applicants (see also paragraph 5, pages 5-6, of Office Action) does not satisfy this required evidence to be supplied by the Examiner or at least other reasons on why motivation to combine in this instance is proper. As discussed during the

Examiner interview, taking disparate and unrelated sections from patent documents in an attempt to solve a problem or for a motivation totally unrelated to Applicants' invention also further illustrates the application of improper hindsight. In other words, the Examiner or one skilled in the art, would not even know how to combine elements, what elements to look for, and where to position the elements absent Applicants' disclosure. To say otherwise, Applicants respectfully submit borders on the notion that nothing is patentable, and yet the U.S. Patent Office has issued over 6,000,000 patents. Accordingly, Applicants respectfully submit that the Examiner has not set forth a proper *prima facie* case of obviousness and, at a minimum, the final status of this action is improper as acknowledged during the recent Examiner interview.

Although the Examiner has rejected Claims 1-16 under 35 U.S.C. § 103 as being unpatentable over *Brattain et al.* in view of *Nazem et al.* or Lukose and further in view of *Phillips et al.* or *Meyer et al.*, Applicants submit that there is no recognition in the references, as admitted by the Examiner, of the problem or cause, there is no evidence of motivation to combine these references, and improper hindsight is being used. For example, the Examiner has given no weight to the business aspects of the claimed invention. Instead, simply applying hardware piecemeal sections to arrive at a method or system as claimed is simply wrong. Such improper analysis also fails to take into account what the patent documents teach as a whole as required. Therefore, Applicants respectfully submit that Claims 1-16 are non-obvious and define over the cited art.

In commenting upon the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the references and the present invention have been mentioned, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions or making any amendments herein to create any implied limitations in the claims. Not all of the distinctions between the prior art and Applicant's present invention have been made by Applicant. For the foregoing reasons, Applicant reserves the right to submit additional evidence showing the distinctions between Applicant's invention to be novel and nonobvious in view of the prior art.

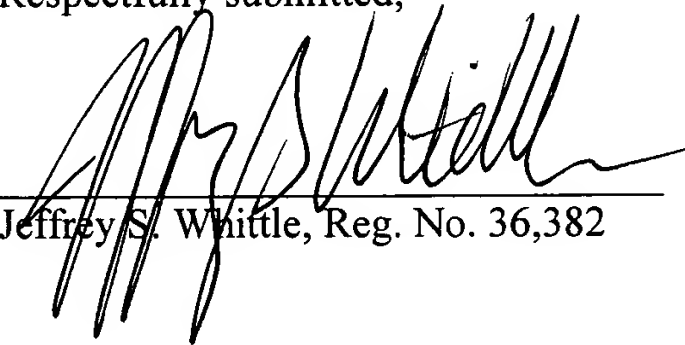
The foregoing remarks are intended to assist the Examiner in re-examining the application and in the course of explanation may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope

of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered to be exhaustive of the facets of the invention that render it patentable, being only examples of certain advantageous features and differences which Applicant's attorney chooses to mention at this time.

CONCLUSION

In view of the remarks set forth herein, Applicants respectfully submit that the application is in condition for allowance. Accordingly, the issuance of a Notice of Allowance in due course is respectfully requested.

Respectfully submitted,



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